MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2020/2021

UPP4622 – PROFESSIONAL PRACTICE II

(All Sections / Groups)

08 MARCH 2020
Reading Time: 02.45 p.m. – 03.00 p.m.
(15 Minutes)
Answering Time: 03.00 p.m. – 06.00 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in the question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 5 pages with 5 Questions only.

3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in a CLEAN and ORIGINAL COPY of the following statutes into the exam venue:

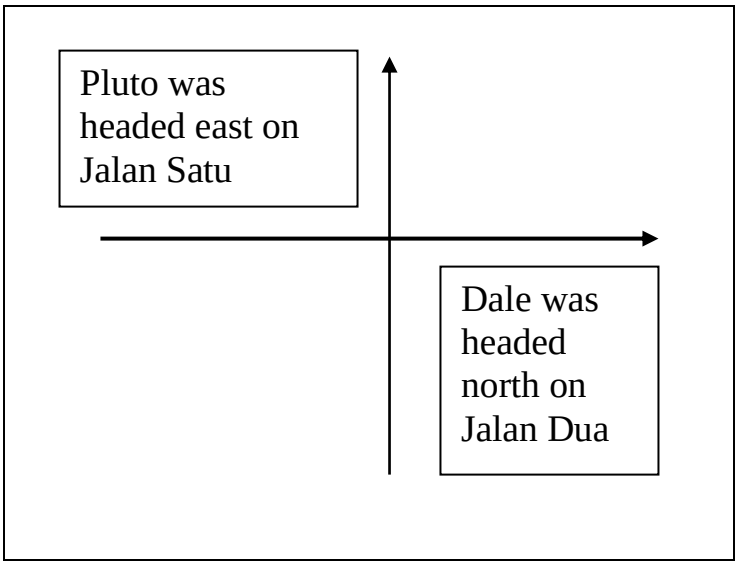
   (a) Probate and Administration Act 1959
   (b) Wills Act 1959
   (c) Distribution Act 1958
   (d) Small Estate (Distribution) Act 1955
   (e) Public Trust Corporation Act
   (f) Rules of Court 2012
   (g) Civil Law Act 1956
   (h) Contracts Act 1950
   (i) Court of Judicature Act 1964
   (j) Limitation Act 1953
   (k) Road Transport Act 1987

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

SECTION A: Attempt ONE (1) Question only.

QUESTION 1



On 16 January 2020, at about 4pm, Pluto, aged 25 years old, was riding a motorcycle no. NAB4343 along Jalan Satu towards the east. He was riding his motorcycle at 50km per hour. Dale was driving a motorcar no. MCC1212 along Jalan Dua towards the north. He had an appointment with a new client at Little Paris Pizza House. Dale was not familiar with the area and was using Waze to guide him. Dale did not notice that the traffic light had just turned red for his direction of travel as he was looking at the direction shown by Waze. He continued to drive. Pluto could not apply brake or avoid Dale's motorcar on time although he saw the motorcar. The two vehicles collided at the cross junction, where the front of Dale's motorcar ran into the right of Pluto's motorcycle. Both vehicles sustained serious damage.

As a result of the accident, Pluto suffered the following injuries:

- Fracture of the left tibia and fibula with 5cm shortening of the left leg
- Multiple abrasion over left forearm, left ankle and left knee
- Wasting of the thigh muscles

Prior to the accident, Pluto worked as a self-employed electrician. His average monthly income was RM3,000. Pluto also received "extra pocket money" of about RM6,000 per month through selling illegal four-digit lottery tickets.

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As a result of the accident, Pluto was not able to work. It took four months for him to recover. Due to the shortening of his left leg, Pluto cannot walk properly. He also has some difficulty to squat or climb stairs. Pluto was jobless since the date of the accident. On 1 August 2020, Pluto finally found another job. He was employed as a parking cashier with a monthly salary of RM2,000. Pluto's medical bill at the Grand Hill Specialist Hospital was about RM30,000. The doctor has strongly recommended further operations to improve his condition of shortening of left leg, having considered his young age. It was estimated that further operations will cost about RM60,000.

As solicitors for ONO Insurance Berhad, the insurers of the motorcar no. MCC1212, write a letter to advise them on the possible claims.

(Total: 25 marks)

QUESTION 2

Sunny is a General Manager in a pharmaceutical company, known as JK Berhad. On 11 June 2013, Sunny and JK Berhad entered into a Scholarship Agreement in which Sunny was granted paid study leave of three years from 1 September 2013 to 31 August 2016 to pursue a Doctor of Philosophy degree (PhD) in Pharmaceutical Sciences at a university in United Kingdom. The Scholarship Agreement provided that upon the completion of his PhD study, Sunny shall report for duty at JK Berhad as the General Manager and serve the company for six years. A breach of this term will render Sunny and his two sureties, Milk and Mocha liable to pay JK Berhad the full amount received by Sunny throughout the period of his study leave, which was RM252,000.

Sunny completed his PhD study successfully within the study leave and he returned to work as the General Manager in JK Berhad starting from 1 September 2016. In February 2021, Sunny was approached by a headhunter for a job opportunity in a rival company, AK Berhad. After attending an interview at AK Berhad, Sunny received a letter of offer from them which offered him the position of Senior General Manager with a much higher salary. Sunny wishes to accept the offer from AK Berhad for his career advancement but he is uncertain on the following:

- The legal consequences if he tenders a letter of resignation to JK Berhad in March 2021
- Since he has served in JK Berhad for a substantial period of time, whether JK Berhad still can make any claim against him and if so, the possible amount
- Whether JK Berhad needs to prove its losses for the amount claimed

Write a letter of opinion to advise Sunny on the issues raised.

(Total: 25 marks)

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SECTION B: Attempt ALL Questions.

Read the facts and answer the questions below.

Luffy was diagnosed with cancer a couple of years ago. On 3 November 2017, he lost his battle against this dreadful disease. Luffy did not have any children. He divorced his wife, Nami in 2007 and she died in January 2017. Luffy's parents both died in a plane crash in 2013.

Luffy owned a double storey bungalow in Taman Damai, Melaka and a Mercedes-Benz car. He also had a collection of antique furniture, a painting, a set of jewelry, clothing, shoes and watches.

In 2001, Luffy had wrote a Will ('the 2001 Will') and appointed his only brother, Ace as the executor. Below is an excerpt of the 2001 Will.

> I gives the following:
> (a) my collection of antique furniture to my nephew Usopp;
> (b) my painting and set of jewelry to my niece Nico;
> (c) all my personal chattels not bequeathed by this my Will together with any of the specific legacies in which shall fail for any reason to my good friend, Chopper.
> I give the sum of one hundred thousand ringgit (RM100,000) to my brother Ace.
> I give the remainder of my estate to my wife, Nami absolutely.

In December 2017, Ace applied for a letter of representation and started to administer Luffy's estate by paying a few outstanding debts and paying a portion of Luffy's funeral expenses. Three months after the application was made, Ace met with an accident and died. His wife also died in the accident.

Ace died without leaving a Will. They had two children: Usopp and Nico. Nico died in 2015 due to dengue fever. Usopp, aged 15, has survived Ace. Nico died after she was divorced by her husband, King in 2015. She left behind three children of the marriage: Sabo, Franky and Walter. They are all adults and have survived Nico and Ace.

Ace left a bungalow worth RM1 million, a BMW car worth RM250,000 and a land worth RM 1 million which he hold on trust for his nephew, Hancock.

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QUESTION 3

(a) In 2007, after divorcing Nami, Luffy wrote on a piece of paper 'All these are revoked' and attached it to the 2001 Will. He placed the Will in the bedroom drawer. Later in 2013, upon knowing that his ex-wife Nami was suffering from a cancer, Luffy decided to help her. He took out the 2001 Will from the drawer and wrote on a new paper "I hereby revived this my Will", and attached it to the Will. Chopper seeks your advice on the status of the 2001 Will.

Write your advice. (6 marks)

(b) Assuming that the 2001 Will is valid, Chopper wishes to know the type of letter of representation, the person who is entitled to apply for such letter and the administrative authority that has the jurisdiction to grant the application as a result of Ace's death.

Present your findings to Chopper. (8 marks)

(c) Shanks, the lawyer appointed by Ace was in doubt as to the modes of commencement applicable in filing for the letter of representation and Ace's liability for intermeddling with Luffy's estate before obtaining such grant.

Solve the problems faced by Shanks. (6 marks)

(d) Present to Chopper how the assets in Luffy's estate that are the subject of specific bequests are going to be distributed.

(5 marks)

(Total: 25 marks)

QUESTION 4

(a) In 2007, after divorcing Nami, Luffy decided to revoke the 2001 Will. He strokes out his signature with a pen on the 2001 Will. The Will was placed in the bedroom drawer. Later in 2013, upon knowing that his ex-wife Nami was suffering from a cancer, Luffy decided to help her. He took out the 2001 Will from the drawer and wrote "I hereby revived this my Will" at the bottom of the Will. Chopper seeks your advice on the status of the 2001 Will.

Write your advice to him. (8 marks)

(b) Doflamingo, one of Luffy's creditor informed Chopper that Luffy owed him RM10,000. Doflamingo also instructed his lawyer to enter a Caveat against the application of letters of representation made by Chopper.

Solve the problems faced by Chopper. (8 marks)

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(c) Usopp wishes to know if he can be appointed as a personal representative to Ace's estate, which administrative authority has the jurisdiction to entertain his application and how the assets will be distributed.

Present your findings to Usopp. (9 marks)

(Total: 25 marks)

QUESTION 5

(a) In 2007, after divorcing Nami, Luffy decided to revoke the 2001 Will. He burnt the Will and threw it into the dustbin. His maid found the half burnt Will and placed it in the kitchen drawer. Later in 2013, upon knowing that his ex-wife Nami was suffering from a cancer, Luffy decided to help her. He found the half-burnt Will in the drawer. Since only the signatures' part was burnt, Luffy wrote on a piece of paper "I hereby revived my 2001 Will and the contents remain the same." He executed the paper in accordance with the formalities required under s.5 of the Wills Act 1959. Chopper seeks your advice on the status of the 2001 Will.

Write your advice to him. (6 marks)

(b) Assuming that Ace did not die in 2017. Even though a year had passed, he did not apply for a letter of representation. Edward, one of Ace's creditor, was anxious and asked for your advice.

Present your advice to Edward. (8 marks)

(c) Usopp found out that Ace had lend out RM20,000 to his friend Mihawk in 2015 and he agreed to repay the loan after a year. Usopp instructed his lawyer to file a suit against Mihawk. He paid the cost of filing and intended to claim this cost from Ace's estate.

Solve Usopp's problems. (8 marks)

(d) Write down Ace's assets and liabilities based on the above given facts. (3 marks)

(Total: 25 marks)

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